

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND ZONING VARIANCE * ZONING COMMISSIONER
S/S Ensign Ct., 396 ft. (+/-) *
N from C/L Williams Avenue (1709 *
Williams Ave.) Sonny's Yacht Club * OF BALTIMORE COUNTY
15th Election District * Case No. 93-437-XA
5th Councilmanic District *
Andrew Sonny Brzezanski, et ux
Petitioner * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as both a Petition for Special Exception and Petition for Zoning Variance for the property known as 1709 Williams Avenue in the Back River/Middleborough section of Baltimore County. Within the Petition for Special Exception, approval is sought for use of the property for a boat yard with 29 wet berths, pursuant to Section 1801.1.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.). As to the Petition for Variance, relief from four sections of the B.C.Z.R. is requested. Specifically, the Petitioners seek relief from Section 1801.2.3.C.1 to allow a 1 ft. side yard in lieu of the required 10 ft.; from Section 409.4.A to allow a driveway width for two way travel of 12 ft. in lieu of the required 20 ft.; from Sections 409.8.A.2 and 409.8.A.6 to allow a grass and gravel surface in lieu of the required durable and dustless striped surface; and, pursuant to Section 409, to approve the parking plan as depicted on the site plan. All of the relief requested is more particularly shown on the aforementioned site plan and received into evidence as Petitioners' Exhibit No. 1.

Appearing on behalf of the Petitions were the property owners, Andrew S. Brzezanski and Frances Brzezanski, his wife. A third member of the Brzezanski family, Henry J. Brzezanski, was also present. Also appearing and testifying was Steve Broyles, the Professional Engineer who prepared the site plan. The Petitioners were represented by Deborah Dopkin, Esquire. There were no Protestants present.

ORDER RECEIVED FOR FILING
Date 9/24/93
By M. Hark

Testimony was received from Andrew S. Brzezanski, property owner. He indicated that he acquired the property in 1967 and the site has been used as a boat yard since that time. A boat yard is defined by Section 101 of the B.C.Z.R. as a place where boats are sold, built, repaired, stored, serviced, and etc. He described the property as split zoned with a small strip of D.R.16 immediately next to Ensign Court and the balance of the site zoned D.R.5.5. The total site area is 25,996 sq. ft. (.60 acres). The property is located at the end of Williams Avenue, adjacent to Ensign Court. The property fronts Hopkins Creek. The entire site lies within the Chesapeake Bay Critical Area.

Mr. Brzezanski also described the surrounding locale and presented a detailed explanation as to the use of the subject property. As noted above, the site is presently used as a boat yard. The property is within a well developed area immediately abutting Hopkins Creek. The Marine Oaks townhouse subdivision is located immediately across Williams Avenue from the property. The site is improved with a one story dwelling which contains the Petitioner's residence as well as the boat yard office and shop. This one story dwelling is connected to a wooden deck which leads to a second dwelling, occupied by the Petitioner's son. The Petitioner testified that he has operated this boat yard as a family business since his acquisition. Although no fuel is sold, the Petitioner provides repair, storage and similar services to his clientele. Further, 29 wet slips are available for rental. Approximately 25 of these slips are rented on a long term basis and 4 are rented on a short term basis. During the winter season, some of the boats are taken out of the water and stored on the property. Moreover, the property is served by public water and sewerage.

The Petitioner testified that he plans no expansion to the facility at the present time. Moreover, there have been no complaints regarding his

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Date 9/24/93
By M. Hark

operation, as far as he knows. In fact, the Petitioner submitted a series of Petitions and letters signed by many of the surrounding residents. These documents made it clear that Mr. Brzezanski conducts a well run and clean operation which does not detract from the quality of life in this neighborhood.

Mr. Broyles also testified and presented the site plan in detail. He described many of the existing improvements including the piers which lead into Hopkins Creek from this site. Mr. Broyles also described in detail a paper street on the south side of the property known as Deming Road. The deeds of ownership of this property references this road and do not actually portray accurate field conditions. Mr. Broyles testified that Deming Road would never be improved due to environmental considerations.

As to the Petition for Special Exception, same is requested to legitimize an existing use of the property. That is, a boat yard is permitted by special exception in a D.R.5.5 zone, pursuant to Section 1801.1.C.2 of the B.C.Z.R. The present use of this property is, therefore, technically in violation of the B.C.Z.R. in that special exception approval has never been granted.

A special exception use is a use which has been predetermined by the Baltimore County Council to be conditionally compatible with the uses permitted as of right in a particular zone. The Zoning Commissioner must decide in each case whether the presumptive compatibility exists, pursuant to the standards set forth in Section 502.1 of the B.C.Z.R. See e.g., Rockville Fuel and Feed Company, Inc., v. Board of Appeals of the City of Gaithersburg, 257 Md. 183, 262 A.2d 499 (1970). The Petitioner has the burden of adducing testimony and evidence to show that the proposed use meets the prescribed standards and requirements. He does not have to show that the proposed use would be a benefit to the community, only that said

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By M. Hark

use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest.

In the instant case, I am persuaded that the Petitioner has met his burden. It is particularly significant that this use has existed on this property for some years. That the actual effects of the use of this property can be examined to support the Petitioner's contention that the Petition should be granted and that the business can continue to operate without any detriment to the community. Thus, based upon the testimony and evidence presented, I am persuaded that the Petitioner has satisfied its burden at law and that the standards set forth in Section 502.1 of the B.C.Z.R. have been satisfied. Thus, I shall grant the Petition for Special Exception.

As to the variances, they are, likewise, necessary to legitimize the existing situation. Both Mr. Brzezanski and Mr. Broyles testified as to the current parking arrangement. Clearly, the variances from Sections 409.8.A.2 and 409.8.A.6 should be permitted to allow a grass and gravel surface in lieu of the required durable and dustless striped surface. These variances should be granted in order to promote environmental considerations. Strict compliance with these regulations would be unduly burdensome and inappropriate.

As to the variance from Section 409.4.A, I am persuaded that the existing driveway travel width of 12 ft. is sufficient. A denial of this variance would necessitate relocation of the existing one story dwelling and driveway which is adjacent thereto. The Petitioner testified that the current driveway is of sufficient width to accommodate traffic on the site. Clearly, there is not significant volume of traffic on this property owing to the limited area and number of slips provided. These site constraints and use of the property justify the granting of this variance.

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As to the 1 ft. side yard setback variance, that shall likewise be granted. This variance is necessary to legitimize the location of the existing one story dwelling currently occupied by the Petitioner's son. This building lies within 1 foot of the side property line, in lieu of the required 10 ft. There appears to be no detriment to the surrounding property by the granting of this variance and the narrowness of the lot and existing site constraints justify the granting of this request.

Lastly, I shall approve the parking plan in accordance with that shown on the site plan. This plan shows a number of spaces towards the rear of the property immediately adjacent to Ensign Court and additional automobile spaces in the rear of the lot nearest Ensign Court. Moreover the water side portion of the property allows for seasonal boat storage. The parking arrangement appears proper and works.

As to all of the variances requested, I am satisfied that the Petitioner has met the burdens imposed within Section 307 of the B.C.Z.R. That is, testimony and evidence was convincing that the property owner would suffer practical difficulty if the variances were denied.

Lastly, it is to be noted that the property abuts Hopkins Creek and is subject to the Chesapeake Bay Critical Area regulations. Significant testimony was taken regarding this issue. Moreover, Chesapeake Bay Critical Area findings were submitted from the Department of Environmental Protection and Resource Management (DEPRM) subsequent to the hearing. These findings indicate that the Petitioner's use of the property is in compliance with the Chesapeake Bay Critical Area regulations and that the project should be approved. Moreover, it is clear that in the event future expansion occurs, the Petitioner will be required to comply with the regulations in effect at that time.

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ORDER RECEIVED FOR FILING
Date 9/24/93
By M. Hark

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 24th day of September, 1993 that, pursuant to a Petition for Special Exception, approval for use of the property for a boat yard with 29 wet berths, pursuant to Section 1801.1.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 1801.2.3.C.1 to allow a 1 ft. side yard setback in lieu of the required 10 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 409.4.A to allow a driveway for two way travel of 12 ft. in lieu of the required 20 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Sections 409.8.A.2 and 409.8.A.6 to allow grass and gravel surface in lieu of the required durable and dustless striped surface, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance to approve the parking plan as depicted on the site plan and received into evidence as Petitioners' Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. In the event of any expansion of the use, building envelope, or number of slips, etc., on the property, the Petitioner shall comply with

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ORDER RECEIVED FOR FILING
Date 9/24/93
By M. Hark

all then existing Chesapeake Bay Critical Area requirements.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmm

ORDER RECEIVED FOR FILING
Date 9/24/93
By M. Hark

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

September 24, 1993

Deborah C. Dopkin
Attorney at Law
Rosolio, Silverman and Kotz, P.A.
502 Washington Avenue, Suite 202
Towson, Maryland 21204-4511

RE: Case No. 93-437-XA
Petitions for Special Exception and Variances
Andrew S. Brzezanski, et ux, Petitioners

Dear Mrs. Dopkin:

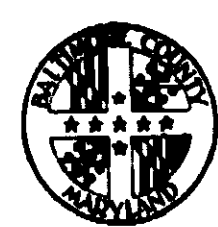
Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Exception and Variances have been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner

LES:mmm
encl.
cc: Mr. and Mrs. Andrew S. Brzezanski



Petition for Special Exception

93-437-XA
to the Zoning Commissioner of Baltimore County

for the property located at 1709 WILLIAMS AVENUE
which is presently zoned D.R.S.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for a Boat Yard for 25 Net Berths pursuant to Section 1801.1.C.2

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessor
(Type or Print Name)
Signature
Address
City State Zip

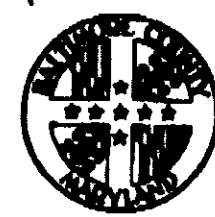
Legal Owner(s)
Andrew Sonny Brzezinski
(Type or Print Name)
Signature
Frances Brzezinski
(Type or Print Name)
Signature
Krzysztof Brzezinski
(Type or Print Name)
Signature

Attorney for Petitioner
Deborah C. Dopkin
(Type or Print Name)
Signature
Address
City State Zip

1709 Williams Avenue
Baltimore, Maryland 21221
Phone No.
Name, Address and phone number of legal owner, contract purchaser or representative to be contacted
Deborah C. Dopkin
(410) 339-7100
Address
City State Zip

ESTIMATED LENGTH OF HEARING
the following date: 6/2/93
All OTHER
REVIEWED BY: E.T. DATE: 6-8-93

ITEM # 442



Petition for Variance

93-437-XA
to the Zoning Commissioner of Baltimore County

for the property located at 1709 WILLIAMS AVENUE
which is presently zoned D.R.S.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)
Practical difficulty and for such other reasons shall be brought forth at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessor
(Type or Print Name)
Signature
Address
City State Zip

Legal Owner(s)
Andrew Sonny Brzezinski
(Type or Print Name)
Signature
Frances Brzezinski
(Type or Print Name)
Signature
Krzysztof Brzezinski
(Type or Print Name)
Signature

Attorney for Petitioner
Deborah C. Dopkin
(Type or Print Name)
Signature
Address
City State Zip

1709 Williams Avenue
Baltimore, Maryland 21221
Phone No.
Name, Address and phone number of legal owner, contract purchaser or representative to be contacted
Deborah C. Dopkin
(410) 339-7100
Address
City State Zip

ESTIMATED LENGTH OF HEARING
the following date: 6/2/93
All OTHER
REVIEWED BY: E.T. DATE: 6-8-93

ITEM # 442

PETITION FOR VARIANCE

- Section 1801.2.3.C1 to allow a one foot (1 ft.) side yard in lieu of the required fifteen feet (15 ft.);
- Section 409.4A to allow a driveway for two way travel of twelve feet (12 ft.) in lieu of the required twenty feet (20 ft.);
- Section 409.8A.2 and Section 409.8A.6 to allow grass and gravel surface in lieu of the required durable dustless striped surface.
- To approve parking as in accordance with zoning plat.

ITEM # 442

93-437-XA

ZONING DESCRIPTION OF AREA OF POSSESSION
OF 1709 WILLIAMS AVENUE

BEGINNING for the same at a point on the eastern edge of Ensign Court 396 feet from the centerline of Williams Avenue, thence running with the said eastern edge of Ensign Court

- 1) North 29 degrees 55 minutes West 97 feet ± thence leaving said Ensign Court
- 2) North 73 degrees 10 minutes East 57 feet ±
- 3) North 85 degrees 00 minutes East 113 feet ±
- 4) North 85 degrees 00 minutes East 50 feet ±
- 5) thence running with the waters of Hopkins Creek 245 feet ±
- 6) North 11 degrees 19 minutes West 21 feet ±
- 7) South 88 degrees 41 minutes West 100 feet ± to the point of beginning. Containing 0.60 acres more or less. This description does not constitute a boundary or field survey and is only for the purposes of a zoning hearing.



ITEM # 442

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY 93-437-XA
Towson, Maryland

District: 111 Date of Posting: 6/2/93
Posted for: Andrew Sonny Brzezinski
Petitioner: Andrew Sonny Brzezinski
Location of property: 1709 Williams Avenue - Sonny's Yacht Club
Location of Sign: 111 West Chesapeake Avenue - Sonny's Yacht Club
Remarks: 111 West Chesapeake Avenue - Sonny's Yacht Club
Posted by: Matthew
Number of Signs: 2
Date of return: 6/2/93

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 6-8-93 ACCOUNT: R-001-241501

AMOUNT: \$ 585.00

RECEIVED: Andrew S. Brzezinski

FOR: 3 PHVA

ITEM # 442

VALIDATION OR SIGNATURE OF CARRIER

93-437-XA

CERTIFICATE OF PUBLICATION

TOWSON, MD. 6/24/93
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/24/93

THE JEFFERSONIAN,

S. Zeke Orlow
Publisher

NOTICE (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 867-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

JUN 18 1993

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-437-XA (Item 442)
1709 Williams Avenue - Sonny's Yacht Club
2/8 Ensign Court, 396' +/- N from c/l Williams Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Andrew Sonny Brzezinski and Frances Brzezinski
HEARING: FRIDAY, JULY 9, 1993 at 2:00 p.m. in Rm. 118, Old Courthouse.

Special Exception for a boat yard for 25 net berths.
Variance to allow a 1 foot side yard in lieu of the required 15 feet; to allow a driveway for two-way travel of 12 feet in lieu of the required 20 feet; to allow grass and gravel surface in lieu of the required durable dustless striped surface; and to approve parking in accordance with the plat.

Arnold Jablon
Director

cc: Andrew and Frances Brzezinski
Deborah C. Dopkin, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 867-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 867-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 30, 1993

Deborah C. Dopkin
Rosolio, Silverman & Kotz, P.A.
502 Washington Avenue STE 220
Towson, MD 21204-4513

RE: Case No. 93-437-XA, Item No. 442
Petitioner: Andrew Sonny Brzezinski, et ux
Petition for Special Exception and Variance

Dear Ms. Dopkin:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on June 8, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

- 2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.
- 3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Helene Kehring in the Zoning Office at 887-3391 or the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Coordinator

WCR:hbk
Enclosures

**Maryland Department of Transportation
State Highway Administration**

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

6-17-93

Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No: 442 (RT)

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Bob Small
John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is _____

Teletypewriter for Impaired Hearing or Speech
383-7655 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5923 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

DATE: June 28, 1993

SUBJECT: 1709 Williams Avenue

INFORMATION:

Item Number: 442

Petitioner: Frances Brzezinski

Property Size: _____

Zoning: D.R. 5.5

Requested Action: _____

Hearing Date: _____

SUMMARY OF RECOMMENDATIONS:

Since all improvements are existing and there is no proposed construction, staff does not oppose the subject request.

Prepared by: *Jeffrey M. Long*

Division Chief: *Gary L. Kerner*

PK/JL:lw

442.ZAC/ZAC1

Pg. 1

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee

Date: June 28, 1993

FROM: Captain Jerry Pfeifer - Fire Dept.

SUBJECT: June 28, 1993 Meeting

- Revised #138- Building shall be in compliance with the 1991 Life Safety Code.
- #441 - No comments
- #442 - Standpipes in accordance with NFPA 303 are required where a hose lay from fire apparatus to the end of a pier exceeds 150'.
- #443 - No comments
- #444 - No comments
- #445 - Building shall comply with the 1991 Life Safety Code and shall be equipped with smoke detectors in accordance with State Law.
- #446 - No comments
- #447 - No comments
- #448 - No comments
- #449 - No comments

CPS-008

**BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE**

TO: Mr. Arnold E. Jablon DATE: July 20, 1993
ZADM

FROM: J. James Dieter

SUBJECT: Petition for Special Exception-Item 442/Zoning Variance
Brzezinski Property (Zoning Case #93-437-XA)
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 1709 Williams Avenue. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. Andrew Brzezinski

APPLICANT'S PROPOSAL

The applicant has requested a special hearing to establish a non-conforming use for a marina; and a special exception for a 29 slip marina. In addition, the applicant is requesting variances from: Section 1801.2.3.C1 "to allow a one foot side yard setback in lieu of the required fifteen feet"; Section 409.4A "to allow a driveway for two way travel of twelve feet in lieu of the required twenty feet"; Section 409.5A.2; and Section 409.5A.6 "to allow grass and gravel surface in lieu of the required durable, dustless striped surface"; and to approve parking as shown on the zoning plat accompanying the zoning request.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." <COMAR 14.15.10.01.0>

Mr. Arnold E. Jablon
July 20, 1993
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DEFINITIONS

"Development activities" means the construction or substantial alteration of residential, commercial, industrial, institutional, or transportation facilities or structures.

"Water-dependent facilities" means those structures or works associated with industrial maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the Buffer specified in COMAR 14.15.09.

REGULATIONS AND FINDINGS

1. Regulations: "New and existing marinas shall meet the sanitary requirements of the State Department of Health and Mental Hygiene as required in COMAR 10.17.02." <COMAR 14.15.03.06.0>.

"A person may not dispose of sewage, body or industrial waste in any manner which may cause pollution of the ground surface, the waters of the State or create a nuisance." <COMAR 20.04.02.02.E>.

"Use of toilets on boats at marinas is prohibited. Toilet facilities on boats docked at marinas shall not be used. It is the responsibility of the owner to post a notice to this effect in a conspicuous place. (Code 1978, Section 13-97)" <Baltimore County Code, Section 17-66>.

Findings: The marina shall provide toilet facilities on site within the existing main building on the property for all boat owners and guests.

No sewage pump out station exists on site; therefore, sewage disposal for individual slip leases must be provided in accordance with COMAR 10.17.02 and Section 26-454(2)(c) of Baltimore County Code. This may be accomplished by obtaining a written agreement from a neighboring marina (within a 1 mile radius) with an adequate sewage pump out facility to grant Sonny's Yacht Club use of said facility. Otherwise, such facilities must be provided on site. Individuals leasing slip space, who violate sewage disposal regulations, shall be held responsible for the violation through a lease written contract agreement with the marina owner. The lease contract agreement shall include the following: "Head discharge overboard shall result in voiding this contract immediately and expulsion from the marina with forfeiture of rental fee.

Boaters shall be notified of the prohibition against sewage dumping in marina waters by posting prominent signs at points of access to piers and other frequented areas.

If any new construction or future development of this facility is proposed, then the marina shall provide pump-out facilities for holding tanks and portable heads on site.

Mr. Arnold E. Jablon
July 20, 1993
Page 3

2. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot" <COMAR 14.15.02.04 C.(7)>.

Findings: Impervious surfaces on the site currently total 10,686 square feet or 41.10% of the property. Although this amount exceeds the 15% impervious surface limit, it existed prior to December 1, 1985 and will be allowed to remain. No additional increase in impervious surface will be allowed. Therefore, to be in compliance with this regulation, the gravel parking/boat storage surface proposed in lieu of a durable and dustless surface shall be constructed of a pervious surface acceptable to the Department of Environmental Protection and Resource Management (DEPRM).

3. Regulation: "Grandfathering - after program approval, local jurisdictions shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on the date of program approval, unless the use has been abandoned for more than one year or is otherwise restricted by existing local ordinances. If any existing use does not conform with the provisions of a local program, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in COMAR 14.15.11" <COMAR 14.15.02.07.A>.

Findings: The applicant is proposing to legitimize an existing marina facility. The applicant is not proposing intensification, expansion, or substantial alteration of this property. This marina use was in existence on the date of Baltimore County's Chesapeake Bay Critical Area Program, February 1988, and the facility has not been abandoned for more than one (1) year. Therefore, the Chesapeake Bay Critical Area Program shall permit the continuation of this marina use. However, a two slip pier, a wooden deck over tidal water and a residential, wooden deck have been constructed after the effective date of the Chesapeake Bay Critical Area Program. Also, a metal, 12 ft. x 20 ft. storage shed placed in the 100 ft. buffer after December 1, 1985 is not grandfathered and must be relocated out of the buffer or to a location acceptable to the DEPRM and the Office of Planning and Zoning. Permits for the aforementioned structures must be applied for by the Petitioner no later than September 1, 1993. If any of these permit applications are denied, the structure(s) in question shall be removed from the property within forty-five (45) days of said denial. Chesapeake Bay Critical Area regulations in effect on the date of these findings shall be applicable to these permit applications.

Any further development or redevelopment activities shall comply with all Chesapeake Bay Critical Area regulations in effect at the time of the proposed activities.

Mr. Arnold E. Jablon
July 20, 1993
Page 4

CONCLUSION

The Special Exception/Zoning Petition shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area regulations and findings listed above and be implemented for the 1994 boating season unless otherwise specified by the DEPRM.

Upon compliance with the Chesapeake Bay Critical Area regulations, this project will be approved. If there are any questions, please contact Ms. Patricia M. Farr at 887-3980.

J. James Dieter
J. James Dieter, Director
Department of Environmental Protection
and Resource Management

JJD:GES:tm

c: Mr. Steven Broyles

WILLIAMS/MQCBGA

ENTRY OF APPEARANCE

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 23rd day of June, 1993,
a copy of the foregoing Entry of Appearance was mailed to Deborah C.
Dopkin, Esquire, Rosolio, Silverman & Kotz, P.A., 502 Washington Ave.,
Suite 220, Towson, MD 21204-4513, Attorney for Petitioners.

Peter Max Zimmerman

SIGNED

CHARLOTTE W. PINE

August 16, 1993

Lawrence E. Schmidt
Zoning Commissioner
400 Washington Avenue
Towson, Maryland 21204

RE: Case No: 93-437-XA (Item 442)
1709 Williams Avenue
Sonny's Yacht Club

Dear Mr. Schmidt:

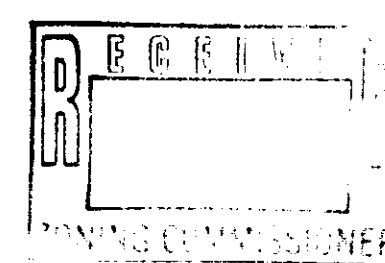
I am writing to request a copy of the Decision in the above captioned case. I was out of State at the time of the hearing and could not attend.

Thank you for your attention to this matter.

Very truly yours,

Charlotte W. Pine

CWP/vq



MARINE OAKS PHASE II ASSOCIATION
P.O. Box 7908
Baltimore, Maryland 21221-0908

September 19, 1990

To Whom It May Concern:

I am writing this letter in support of Sonny's Boat Club near the Marine Oaks community in Essex, Maryland. I am a long time Board member of the Marine Oaks Homeowners' Association and current President.

I would like to bring to light the asset that Mr. Sonny Brzezinski and his Boat Club have been to the community and others living in the Essex area. On many occasions Sonny's Boat Club has provided extensive services to the Marine Oaks residents, such as: boat towing, engine and boat repair, and dockage. In so far as community development, Sonny has personally assisted in trash removal for us and labor toward installing and repair of a terrible water drainage problem we have had for many years.

His neighborly attitude goes beyond that. The owner of Sonny's Boat Club has been seen on many occasions performing lawn maintenance for an elderly homeowner. It is quite evident that Sonny Brzezinski and his Boat Club are of tremendous value to the Marine Oaks residents and other homeowners in the Hopkins Creek area.

I strongly urge the continued existence of Sonny's Boat Club in our neighborhood.

Sincerely,

Dennis Stallings
President
Marine Oaks Phase II

**SONNY'S BOAT CLUB
1709 WILLIAMS AVENUE
BALTIMORE, MARYLAND 21221**

**PROPERTY OWNERS
MR. AND MRS. ANDREW BRZEZENSKI**

TO WHOM IT MAY CONCERN:

SONNY'S BOAT CLUB, 1709 Williams Avenue, Baltimore

Maryland has been in existence and serving the community since 1967. The Baltimore County zoning law requires that this property has to be zoned as a marina. If you have no objections to this change, would you sign your name below supporting this change in Mr. and Mrs. Andrew Brzeczewski's behalf. Location of this property is adjacent to the Hopkin's Creek on Middle River. Thank you for your cooperation.

SIGNATURE	ADDRESS	DATE
Mr. Mrs. A. L. Simon	1644-57 William Ave	July 3 1993
Mr. & Mrs. Bond	7-200 1645 William Ave	5-7-93
Patricia A. Rivera	1643 William Ave	780 3/19
Marion F. Roth	1644 1640 William Ave	6-84 - 2-8-98
Kenneth Mutton	1642 William Ave	6-82-4842
Chris Casner	1646 William Ave	6-82-6-686 - 7/6/93
Kenya Mutton	1653 William Ave	391-5916
Mr. & Mrs. F. Hahn	1652 William Ave	391-3515 - 7/6/93
of H. 20	8 Ebbing Ct	974-4625 7-6-93

**SONNY'S BOAT CLUB
1709 WILLIAMS AVENUE
BALTIMORE, MARYLAND 21221**

PROPERTY OWNERS
MR. AND MRS. ANDREW BRZEZENSKI

TO WHOM IT MAY CONCERN:

SONNY'S BOAT CLUB, 1709 Williams Avenue, Baltimore

Maryland has been in existence and serving the community since 1967. The Baltimore County zoning law requires that this property has to be zoned as a marina. If you have no objections to this change, would you sign your name below supporting this change in Mr. and Mrs. Andrew Brzezewski's behalf. Location of this property is adjacent to The Hopkin's Creek on Middle River. Thank you for your cooperation.

SIGNATURE	ADDRESS	DATE
W. Remy	1622 Grand Ave.	2/22/
William G. Tally	932 Lance Ave.	2/22/
Stephen J. Nix	923 Foxwood Ave	2/22/
Tom Jari	25 Ebbing Ct.	2/24/

**SONNY'S BOAT CLUB
1709 WILLIAMS AVENUE
BALTIMORE, MARYLAND 21221**

PROPERTY OWNERS
MR. AND MRS. ANDREW BRZEZENSKI

TO WHOM IT MAY CONCERN:

SONNY'S BOAT CLUB, 1709 Williams Avenue, Baltimore

Maryland has been in existence and serving the community since 1967. The Baltimore County zoning law requires that this property has to be zoned as a marina. If you have no objections to this change, would you sign your name below supporting this change in Mr. and Mrs. Andrew Brzezinski's behalf. Location of this property is adjacent to The Hopkin's Creek on Middle River. Thank you for your cooperation.

SIGNATURE	ADDRESS	DATE
Joseph F. Brown	19 N. HARTSHORN RD. ^{Box 7}	7/2/20
Ray Spencer	11 Eldridge Ct	Butte 21220
William J. Went	-440 N. INTER. 14th, H. CT	21230
William J. Lee	621 Canal	Butte 21221
C. M. Johnson	421 Johnson Ct	Butte 21221
Stephen H. New	1651 W. 1st Ave	Butte 21221
John B. Johnson	1405 W. 1st Ave	Butte 21221
Joe Maguire	54 Himesman Cr	Butte 21221
John A. Taylor	3577 Dudley Ave	Butte 21213
William H. Hager	1406 E. Clementine Rd	Butte 21221

**SONNY'S BOAT CLUB
1709 WILLIAMS AVENUE
BALTIMORE, MARYLAND 21221**

PROPERTY OWNERS
MR. AND MRS. ANDREW BRZEZENSKI

TO WHOM IT MAY CONCERN:

SUNNY BOAT CLUB, 1709 Williams Avenue, Baltimore
Maryland has been in existence and serving the community since 1967. The Baltimore County
Zoning law requires that this property has to be zoned as a marina. If you have no objections
to this change, would you sign your name below supporting this change in title and files. Andrew
Bresciani's behalf. Location of this property is adjacent to The Hopkin's Creek on
Middle River. Thank you for your cooperation.

SIGNATURE	ADDRESS	DATE
A. J. [Signature]	1425 [Address]	6/25/93
[Signature]	1205 [Address]	6/26/93
[Signature]	20 [Address]	6/26/93
A. J. [Signature]	1425 [Address]	6-26-93
[Signature]	25 [Address]	6-26-93
[Signature]	13 [Address]	6-27-93
[Signature]	[Address]	6-27-93
[Signature]	[Address]	6-27-93
[Signature]	[Address]	6-27-93
[Signature]	[Address]	6-27-93

**SONNY'S BOAT CLUB
1709 WILLIAMS AVENUE
BALTIMORE, MARYLAND 21221**

PROPERTY OWNERS
MR. AND MRS. ANDREW BRZEZENSKI

TO WHOM IT MAY CONCERN:

SONNY'S BOAT CLUB, 1709 Williams Avenue, Baltimore Maryland has been in existence and serving the community since 1967. The Baltimore County zoning law requires that this property has to be zoned as a marina. If you have no objections to this change, would you sign your name below supporting this change in Mr. and Mrs. Andrew Brzezinski's behalf. Location of this property is adjacent to The Hopkin's Creek on Middle River. Thank you for your cooperation.

SIGNATURE	ADDRESS	DATE
Melissa Ryan	16 Ensign Ct.	6-28-93
John R. Ryan	1107 Williams a	6-28-93
William Ryan	1622 Spanish ave	6-20-93
Ed Ryan C	12 Elm St., 7	6-28-93
Jackie Burroughs	18 Ensign Ct	6-28-93

**SONNY'S BOAT CLUB
1709 WILLIAMS AVENUE
BALTIMORE, MARYLAND 21221**

PROPERTY OWNERS
MR. AND MRS. ANDREW BRZEZENSKI

TO: MARINA OWNERS LOCATED NEAR OR ON THE HOPKINS CREEK

solitry's Boat Club, 1769 Williams Avenue, Baltimore Maryland has been in existence and serving the community since 1967. The Baltimore County Zoning law requires that this property has to be zoned as a marina. If you have no objections to this change, would you sign your name below supporting this change in Mr. and Mrs. Andrew Brzezanski's behalf. Location of this property is adjacent to The High in's Creek on Rhode River. Thank you for your consideration.

[illegible]

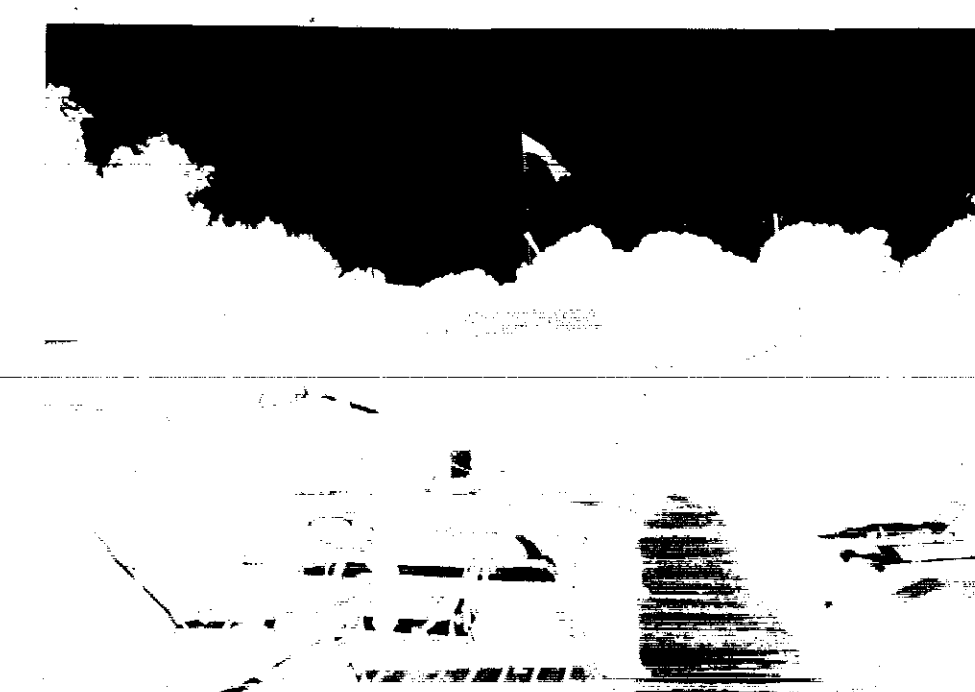
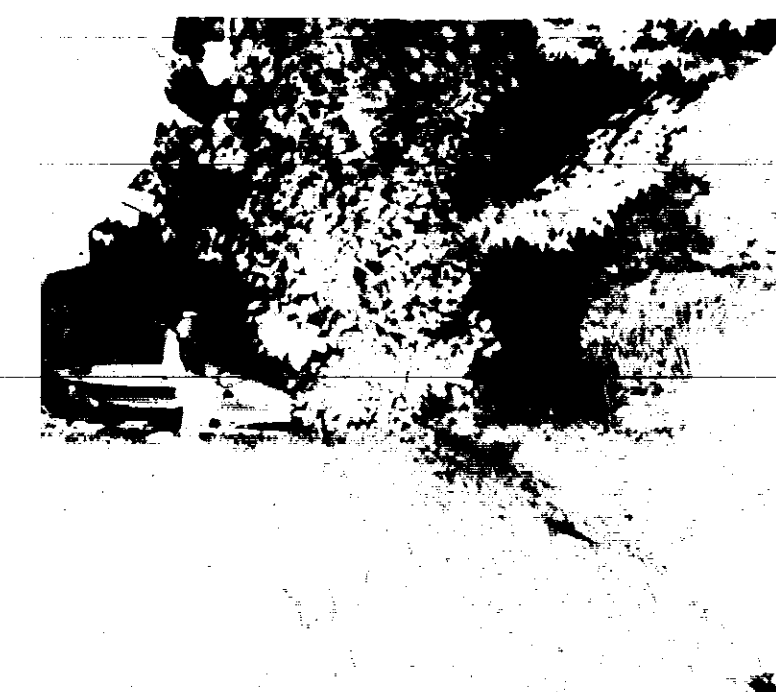
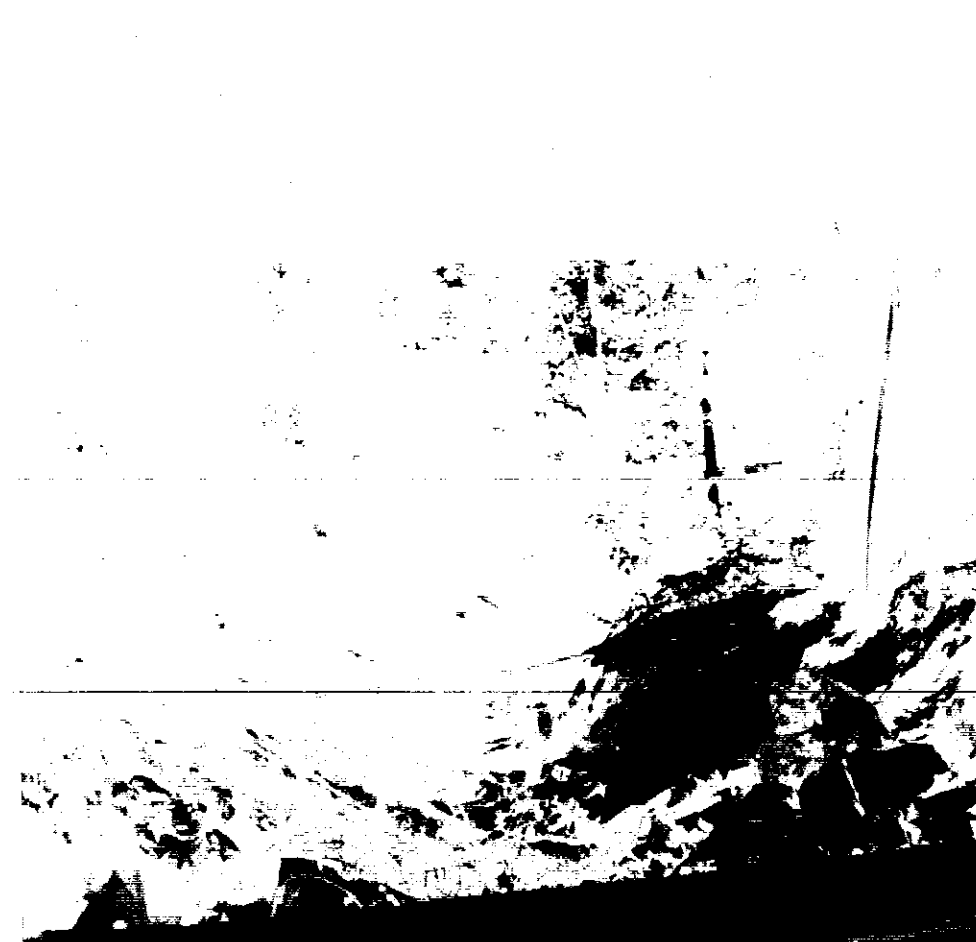
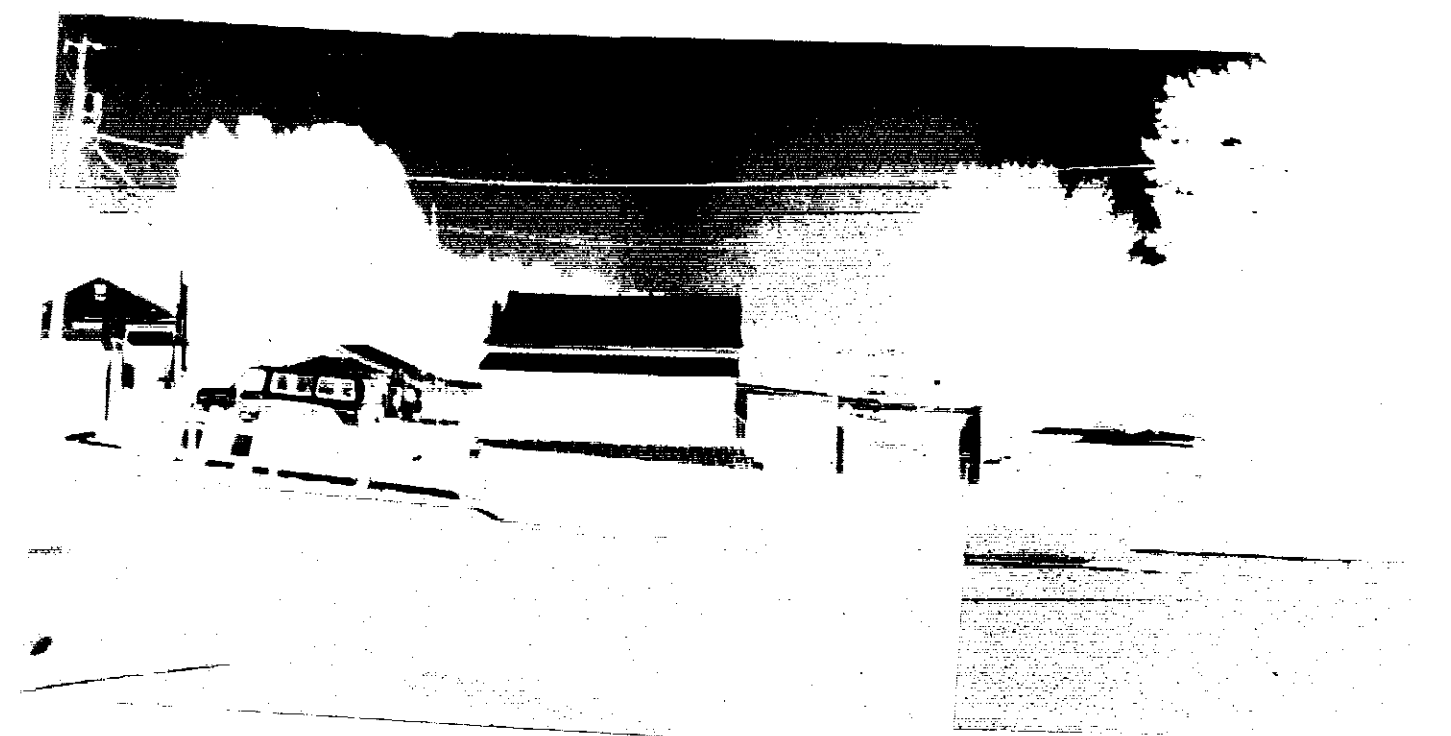
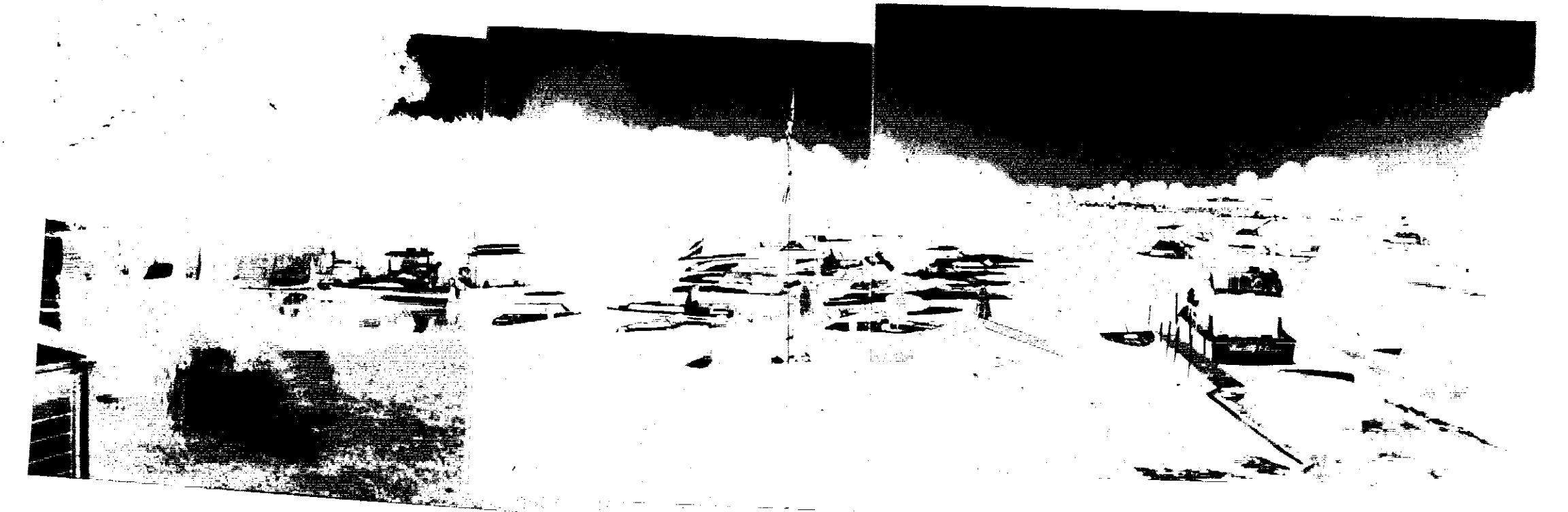
SONNY'S BOAT CLUB
1709 WILLIAMS AVENUE
BALTIMORE, MARYLAND 21221

PROPERTY OWNERS
MR. AND MRS. ANDREW BRZEZINSKI

TO WHOM IT MAY CONCERN:

SUNNYVIEW BEACH is located on Maryland Avenue East between Maryland and Beech Streets. The property has been in existence and serving the community since 1967. The Baltimore County zoning law requires that this property has to be zoned as commercial. If we were successful in this change, would you sign your name below supporting this change in land use? Please write in Bricezenski's behalf. Location of this property is shown on the map below. Thank you for your cooperation.

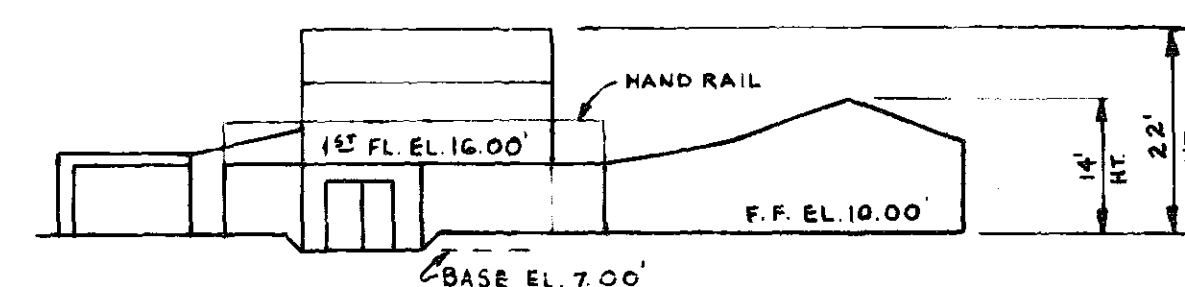
SIGNATURE	ADDRESS	DATE
Alvin [unclear]	[unclear]	11/1/90
Robert [unclear]	[unclear]	8-17-90
William [unclear]	508 [unclear]	8-17-90
Michael [unclear]	145 [unclear]	8-17-90
Caroline [unclear]	ESCO X	8/18/90
William [unclear]	ESCO X	8/18/90
Mark [unclear]	[unclear]	8-20-90
Joseph [unclear]	37 [unclear] CT 06221	8/20/90
Joseph [unclear]	1105 Tarr Dr. Apt 3D	8/20
Sharon [unclear]	1105 Tarr Dr. Apt 3D	8/20



- SITE DATA FOR**
- NET SITE AREA = 25,996 sf (0.60 ac)
 - GROSS SITE AREA = 25,996 sf (0.60 ac)
 - CURRENT ZONING: DR 5.5 & DR 16
 - OWNER: ANDREW D. BRZEZINSKI & FRANCES R. BRZEZINSKI
 - PROPERTY LOCATION: 1709 WILLIAMS AVENUE, BALTIMORE, MARYLAND 21219
 - PROPERTY REFERENCE: 4988/428
 - EXISTING USE: SINGLE FAMILY DWELLING AND BOAT YARD
 - PROPOSED USE: SINGLE FAMILY DWELLING AND BOAT YARD
 - PUBLIC WATER AND SANITARY SEWER IS EXISTING ON SITE
 - EXISTING FLOOR AREA = 3,058 sf
 - EXISTING FLOOR AREA RATIO = 11.76 %
 - PROPOSED FLOOR AREA = 3,058 sf
 - PROPOSED FLOOR AREA RATIO = 11.76 %
 - EXISTING IMPERVIOUS AREA = 10,686 sf = 41.10 %
 - PROPOSED IMPERVIOUS AREA = 10,686 sf = 41.10 %
- NOTE: ALL IMPROVEMENTS ARE EXISTING THERE IS NO PROPOSED CONSTRUCTION.
9. THERE ARE NO EXISTING OR PROPOSED SIGNS. ANY FUTURE SIGNS SHALL COMPLY WITH SECTIONS 413.2 & 413.5 BCZ AND ALL ZONING SIGN POLICIES.
10. THIS ENTIRE SITE LIES WITHIN THE CHESAPEAKE BAY CRITICAL AREA LDA ZONE (LIMITED DEVELOPMENT AREA).

- PARKING DATA**
- PARKING CALCULATION:
 - 1 SINGLE FAMILY DWELLINGS X 2 SPACES/DWELLING = 2 SPACES.
 - 29 SLIP BOAT YARD X 0.5 SPACES/SLIP = 15 SPACES.
 - PARKING REQUIRED: = 17 SPACES
 - PARKING PROVIDED = 26 SPACES
 - DIMENSION OF STANDARD PARKING SPACE: 8'-6" X 18'
 - PARKING SURFACE IS MACADAM AND GRASS

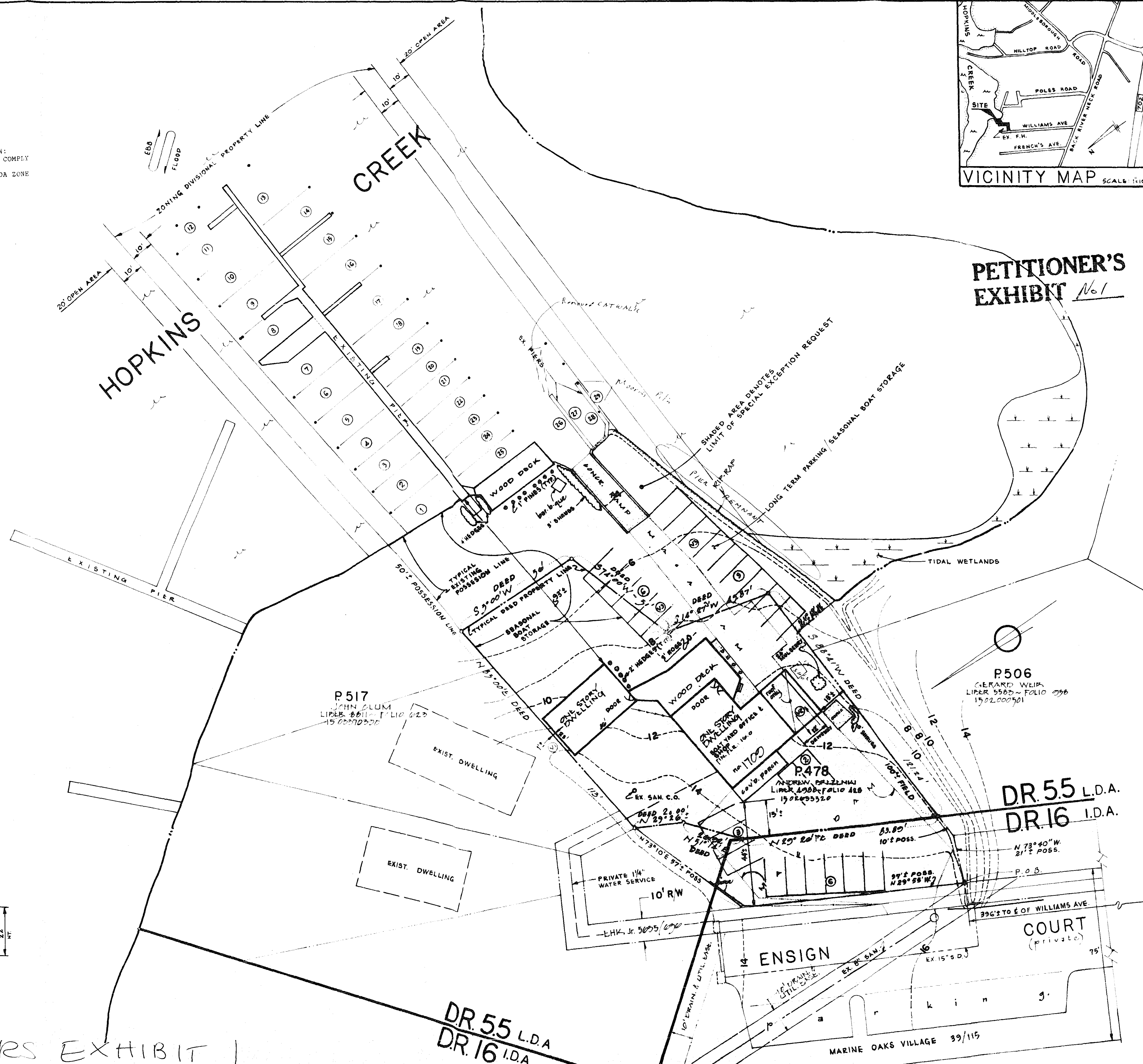
- VARIANCES REQUESTED**
- Section 1801.2.3.C1 to allow a one foot (1 ft.) side yard in lieu of the required ten feet (10 ft.);
 - Section 409.4A to allow a driveway for two way travel of twelve feet (12 ft.) in lieu of the required twenty feet (20 ft.);
 - Section 409.8A.2 and Section 409.8A.6 to allow grass and gravel surface in lieu of the required durable dustless striped surface.
 - To approve parking in accordance with zoning plat.



EAST ELEVATION

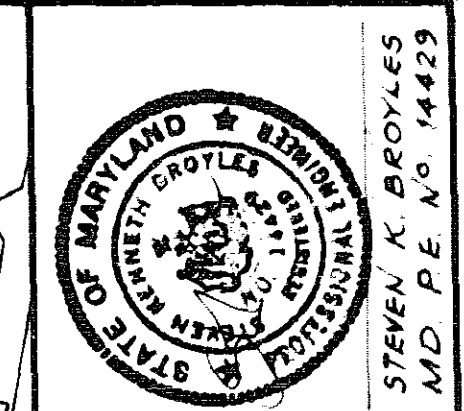
SCALE: 1" = 20'

PETITIONERS EXHIBIT 1



PETITIONER'S EXHIBIT No 1

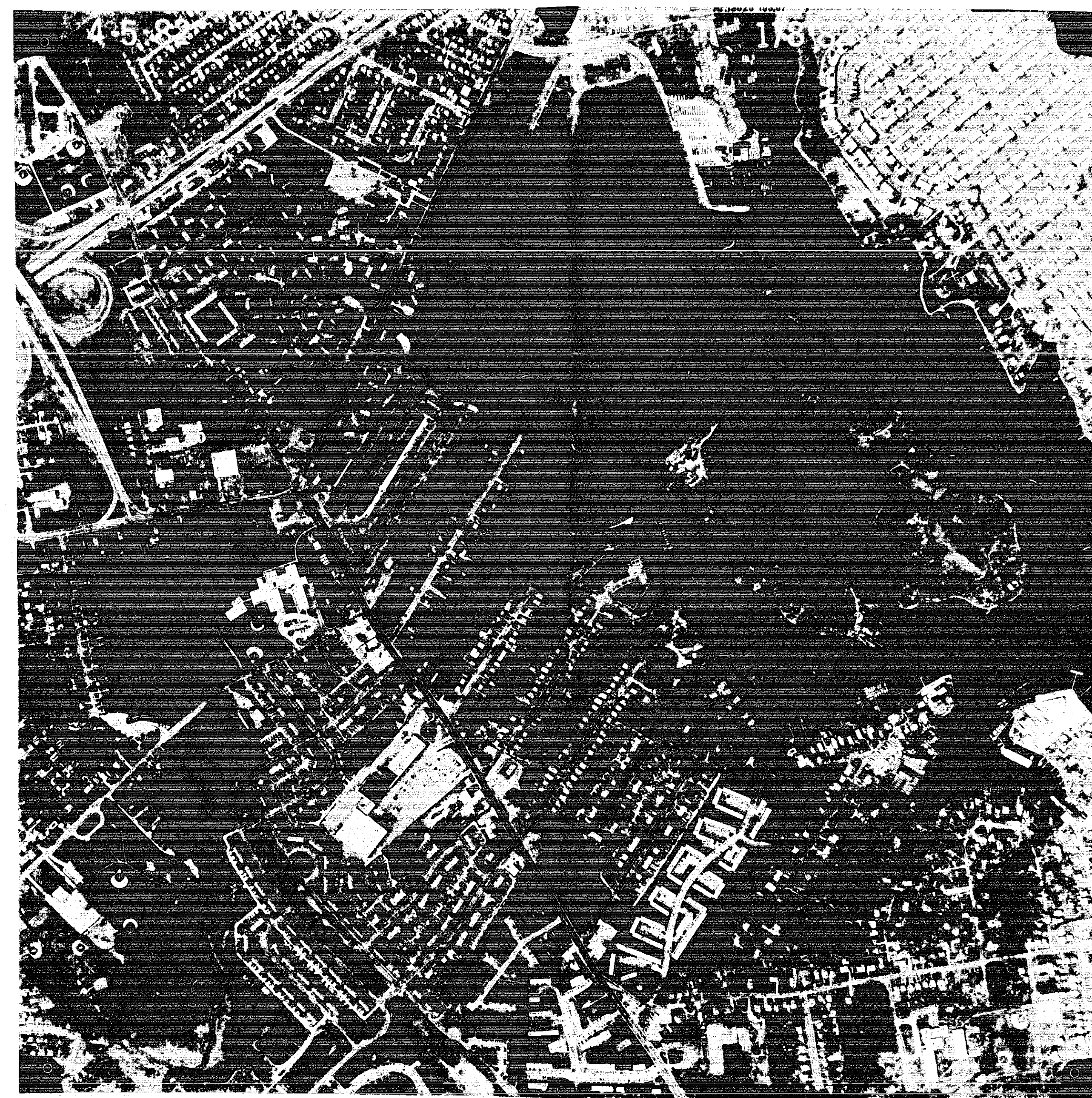
VICINITY MAP SCALE: 1" = 1000'



BHA
BRYLES, HAYES AND ASSOCIATES, INC.
Engineers & Land Planners & Surveyors
4972 ILCHESTER ROAD • ELICOTT CITY, MD 21043
PHONE (410) 747-5500 • FAX (410) 747-2982

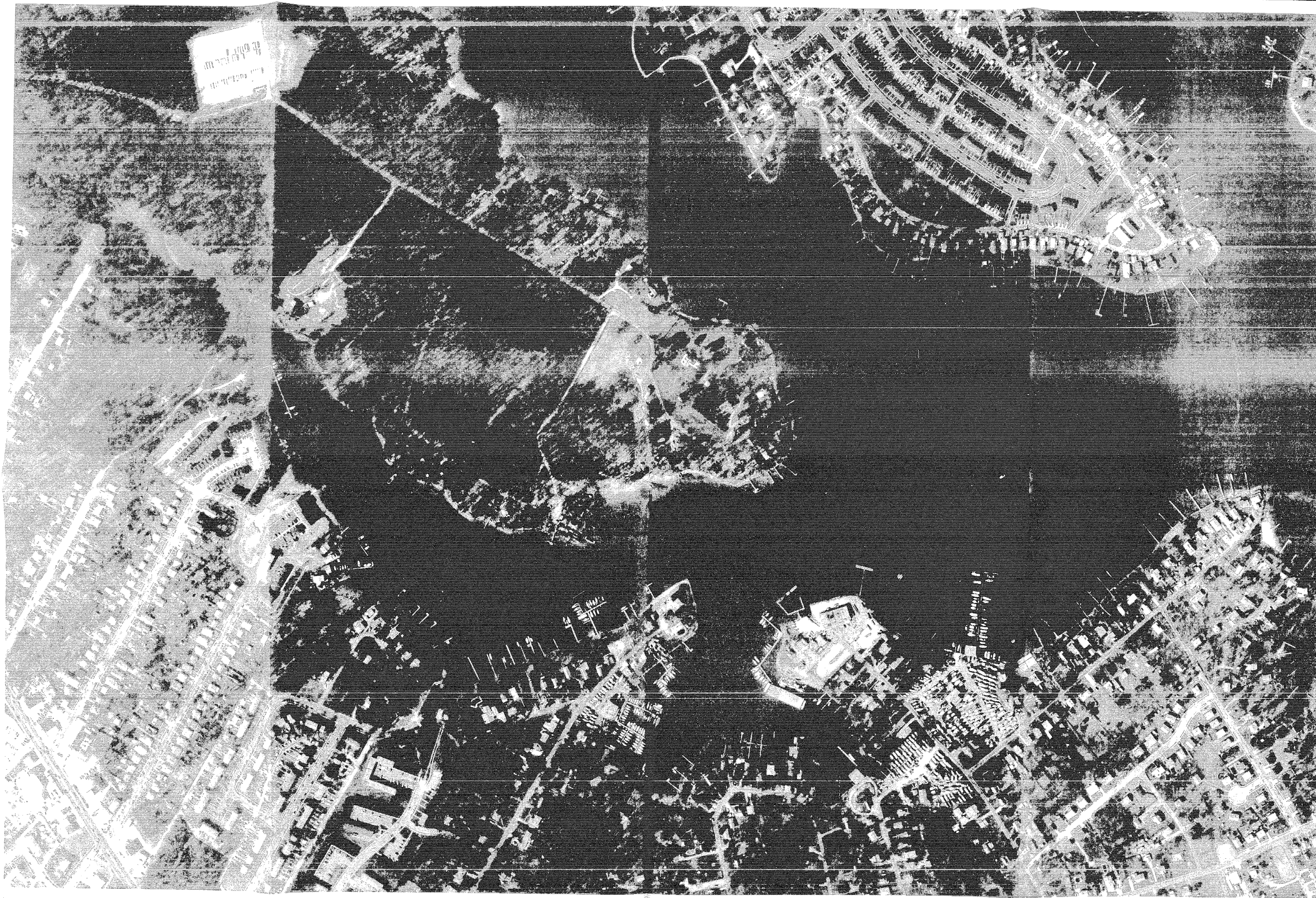
SONNY'S YACHT CLUB
BALTIMORE CO., MARYLAND
15TH ELECTION DISTRICT
PROJECT: SITE PLAN TO ACCOMPANY SPECIAL EXCEPTION AND VARIANCE
DATE: 6-7-93
SCALE: 1" = 20'
DWG BY: Campbell

REVISIONS
SHEET
1
OF 1



Aerial Photography Associates, Inc.
 269

Petitioning

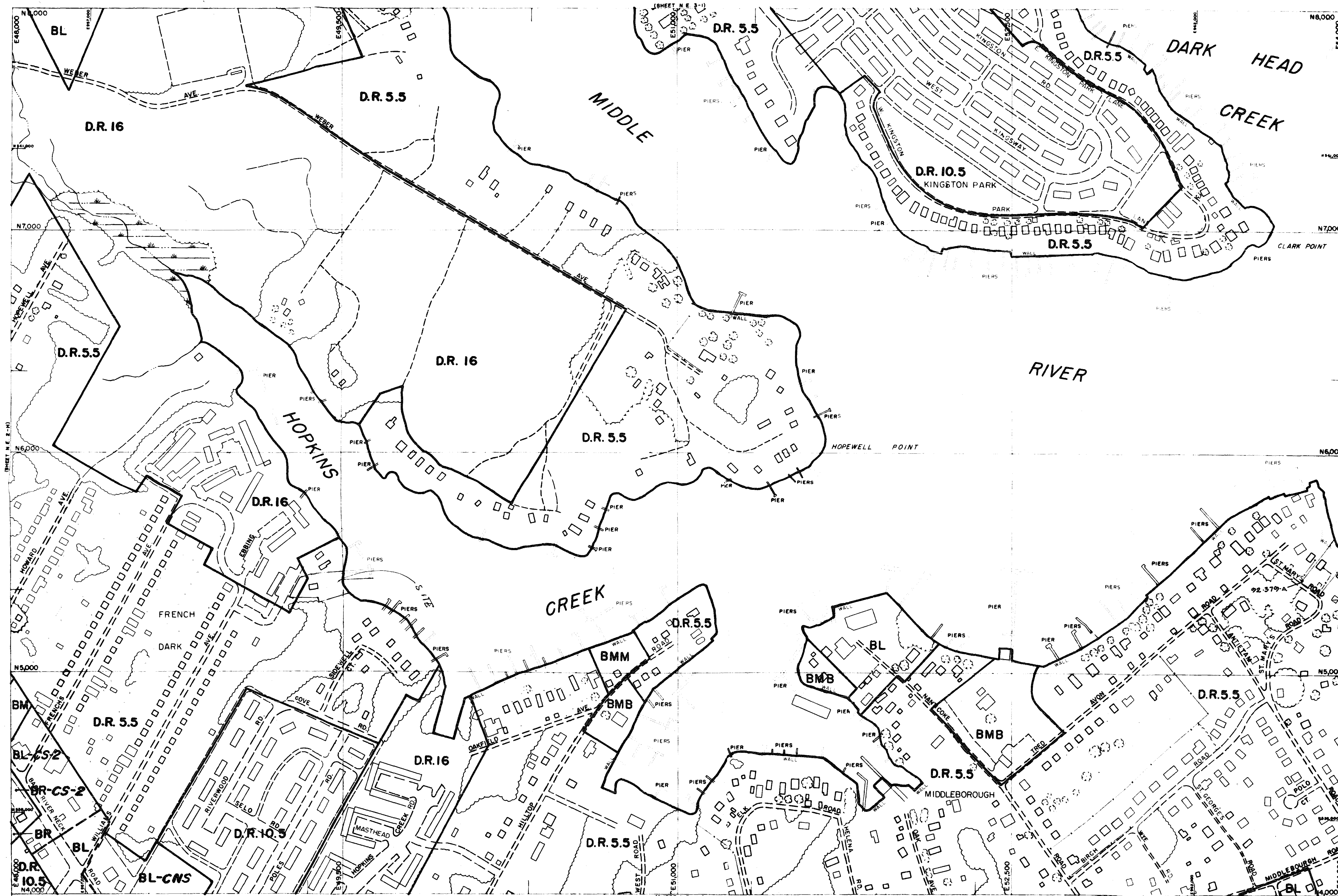


PETITIONERS

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE 1" = 200' ±	LOCATION MIDDLE RIVER	SHEET N. E. 2-1
DATE OF PHOTOGRAPHY JANUARY 1966		



I-SE 93-437-XA

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992

William A. Howard
Chairman, County Council

SCALE
1" = 200'

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
ITEM # 442
MIDDLE RIVER

SHEET
NE
2-1